

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4969 of 1995

To

FIRST APPEAL No 4977 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

THAKOR CHANDUJI VIRAMJI

Appearance:

Mr. M.R. Anand, G.P. with Mr. L.R. Pujari for appellant.
Mr. Nitin Amin for respondents.

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 05/07/96

ORAL JUDGEMENT

1. Heard learned counsel for the respective parties.
Appeals admitted. Mr. Nitin Amin waives service for the respondents.
2. At the joint request of learned counsel for the parties this group of appeals is taken up for final hearing today.

3. As a result of the discussion on the impugned judgement, the relevant evidence on record and on a perusal of such documents which have been referred to me by the learned counsel for the respective parties, the following facts emerge.

3.1 Lands situated in the village Tarab, Taluka Visnagar, District Mehsana were acquired by the State for the Dharoi Canal Project under a notification under section 4 of the Land Acquisition Act dated 20th August 1983. The claimants, not being satisfied with the award passed by the LAO, preferred References under section 18 of the Act to the District Court. These References were decided by the lower court on merits, and the market value of the lands under acquisition were determined at Rs.10/- per square meter. The State has preferred these appeals under section 96 CPC read with section 54 of the Land Acquisition Act, challenging the awards in question and the determination of the market value of the acquired lands at Rs.10/- per square meter.

4. On a scrutiny of the relevant documents on record, as also of the impugned judgement and awards it becomes apparent, and this is not disputed by the learned counsel for the respective parties, that the trial court has mainly relied upon Exh.27 for the determination of the market value. Exh.27 is an earlier decision of the same court in the earlier Land References under section 18, viz., LAR Nos.409/86 to 425/86. These decisions under section 18 of the Act (Exh.27) were challenged by the State by way of first appeals to this Court. These appeals being F.A. No.1249/96 (and others in the group) were heard and decided by me on merits by my earlier decision dated 28th June 1996. In my said decision I had reduced the market value of the lands under acquisition from Rs.10/- (as determined under section 18) to Rs.8.50ps. per square meter.

5. It is pertinent to note and it is common ground on both sides that the lands presently under consideration and the lands dealt with by Exh.27 are lands situated in the same village, are lands acquired for the same project viz. Dharoi canal project, and that there is no other substantial difference in terms of the nature of the lands. In the premises, learned counsel for the appellant submits that the lands presently under consideration must also be valued at Rs.8.50ps per square meter.

6. As against this learned counsel for the

respondents submits that although it may appear that the market value as determined by me in the abovementioned decision would ipso facto apply to the lands presently under consideration, there is one material and significant distinction between the two which cannot be overlooked. In this context it is common ground that the lands dealt with by me in the aforesaid first appeals were acquired by a notification under section 4 which was dated 15th April 1982, whereas the lands presently under consideration in this group of appeals were acquired under a corresponding notification which was dated 20th August 1983. In other words, the lands presently under consideration were acquired one year and four months subsequently. Thus, some increment in the market value must be given on account of this lapse of time, on account of the general rise in the price of lands in the vicinity, the effect of development in the entire taluka and district, improved yields on account of improved methods of agriculture, inflation, etc. The principle of allowing an increment on account of these factors is not disputed by learned counsel for the appellant. The only aspect which requires consideration is what should be the extent of increment.

7. As a result of the discussion it is found that in the opinion of the learned counsel for the appellant, the increment which should be allowed on account of the lapse of time of one year and four months would be almost nothing and/or insignificant, whereas according to the learned counsel for the respondent such increment would be at least 50 paise or upto 80 paise per square meter. Ultimately the learned counsel for the respective parties, having arrived at this narrow margin of difference, have suggested that the court may then determine an appropriate figure in the context of their suggestions.

8. Having applied my anxious consideration to this aspect of the matter I am of the opinion that an increment of 30 paise per square meter is amply justified, on the facts and circumstances of the case. This increment of 30 paise per square meter is only on account of the factor of lapse of time between the two notifications under section 4 of the said Act. Thus, in my opinion, the determination of the market value of the lands in question at Rs.8.80 ps per square meter would be in consonance with the evidence on record and would meet the ends of justice. Accordingly I determine Rs.8.80ps per square meter as the market value of the lands under acquisition.

9. Consequently, these appeals are required to be partly allowed. The impugned judgement and awards are consequently modified to the extent that the claimants shall be entitled to the market value of the lands under acquisition at the rate of Rs.8.80 ps per square meter. Consequently, the quantum of solatium and interest also would stand reduced proportionately. The rest of the awards as regards the rate of solatium and the rate of interest shall stand confirmed.

10. Decree accordingly.

11. It is directed that the appellant shall deposit the requisite amount due and payable under the present decree in the trial court separately in each of the Land Reference Cases, together with costs and interest latest by 15th September 1996. Direct Service permitted.
